Now is the Time to Steward Tomorrow with Your Year-End Planning

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Denise Waitley once said “No matter how much time you’ve wasted in the past, you still have an entire tomorrow. Success depends upon using it wisely by planning and setting priorities.”

Year-end usage of that time often calls for us to review our present estate plan or to create a plan if we have none. As you review your personal circumstances, consider the integration of a healthcare power of attorney, a financial power of attorney, a living will, an estate will, and a trust with your family and charitable goals in mind.

Drafting these goals should come first: Are there minors to protect or beneficiaries with special needs or certain assets that need specific handling? Make a list of your assets, how held, and values. This brings clarity to goal setting.

Meet with your financial tax advisor to determine beneficiary designations and what the tax ramifications of your thoughts are. Decide if distributions are to be specific or percentage and under what circumstances they are to be made. Who will be in charge of implementing the plan? Who will be the backups? Will the same person or corporation be in all capacities except for guardian of individuals?

When meeting with the drafter of the plan be specific and don’t be afraid to ask questions or express personal concerns. Once you have a plan in place or if you already have documents, review them every 3-5 years or after a significant life change occurs. Let your family know where your documents, safety deposit box and assets are located.

Planning isn’t hard – it is a necessity.

Entering the final month of this most unusual year, it is a good time to pause and give thanks for our blessings and the people in our lives. It is also the time many people engage in year-end charitable giving. Recognizing the financial challenges faced this year by not only individuals and businesses but also by nonprofit organizations, last March, the government signed into law the Coronavirus Aid, Relief, and Economic Security (CARES) Act, a massive economic relief package that contained significant incentives to encourage charitable giving to non-profits and to provide additional tax benefits to taxpayers contributing to charities. For those of you now focusing on your 2020 plans for charitable giving, a review of some of the current rules on charitable giving may provide helpful guidance in directing year-end gifts.

The 2017 Tax Cuts and Jobs Act increased the deductibility of cash contributions from 50% of the donor’s adjusted gross income to 60% of the donor’s adjusted gross income. The TCJA also increased the standard deduction to $12,400 for 2020 individual taxpayers and $24,800 for married couples filing jointly. The higher standard deduction results in fewer itemized deductions which includes charitable contributions.

The (CARES) Act increases the 60% limit for cash donations during 2020 only to 100% in some cases. This 100% deduction is available only for cash gifts to charities that are not donor advised funds or supporting organizations. The CARES Act also allowed anyone to deduct $300 of charitable gifts even if they don’t itemize deductions.

With these rules in mind, here are some year-end giving strategies to consider.

1. Charitable Planning with IRA Qualified Charitable Distributions ("QCD")

For those at least age 70 ½ with an IRA and who plan to donate to charity, consider making a QCD from your IRA. Individuals over the age of 70 ½ can donate up to $100,000 annually in IRA assets directly to charities, without including the distribution in taxable income. QCDs have value to those with few deductions or close to charitable deduction limitations. This is because the tax-free QCD is not a deduction, itemization and charitable limits do not therefore apply to it.

Also, the CARES Act allows an individual in 2020 to elect to deduct up to 100% of AGI for cash charitable contributions to public charities, so individuals over 59 ½ can avail themselves of benefits similar to a QCD by taking a cash distribution from their IRA, contributing the cash to a public charity, and completely offset the tax attributable to the distribution by taking a charitable deduction in an amount up to 100% of their AGI for the tax year.

2. Give Appreciated Long-Term Stocks Instead of Cash

Most publicly traded securities can be donated to a public charity. Upon the donor's gift, the donor gets to claim the stock's fair market value as an itemized deduction up to 30% of the donor's adjusted gross income (AGI). Other stocks, such as privately traded stocks, may also be deductible, but additional requirements and limitations can apply. This technique allows a donor to fulfill their charitable intent without triggering capital gains tax by selling, then donating the appreciated stock.

This same technique can also be applied to those who receive company stock as a bonus from their employers. This can result in concentration risk for the employee. Gifting shares of company stock further philanthropic goals while diversifying company awards and managing the capital gains tax impact.

3. "Bunch" Deductions

The TCJA raised the standard deductions and capped many itemized deductions. Thus, charitable deductions can only be deducted if the itemized deductions, including the charitable contributions, exceed the standard deduction of $12,400 or $24,800. "Bunching" is techniques of concentrating many deductions in one year, then skip a year or two. This technique can work when itemized deductions fall below the standard deduction.

To do this, the donor would make two or more years' worth of charitable donations in a year, then take several years off. Grouping several years of charitable deductions into one year can increase the deduction value beyond the standard deduction threshold for a single year, and the larger standard deduction is taken in the gap years.

4. Make Cash Gifts

The CARES Act had two big charitable incentives. The first allows anyone to deduct $300 in charitable gifts, even if they do not itemize. Second, for 2020 only, the CARES Act raised the AGI limit on cash charitable gifts to public charities from 60% of AGI to 100% of AGI. This enables donors to deduct an additional 40% of their donations and for high income donors, this could provide a substantial tax benefit.

5. Use Charitable Trusts

A strategy for those with large IRAs is to name a Charitable Remainder Trust (CRT) as IRA beneficiary. The SECURE Act, passed in December of 2019, requires that IRAs be distributed ten (10) years after the account holder's death. Using a CRT as the IRA beneficiary is a way to stretch the IRA payouts longer than the ten-year term. A CRT provides a current income tax charitable deduction and an income payout to non-charitable beneficiaries, such as you or your children, for a term of no more than 20 years or the life of one or more of the non-charitable beneficiaries. When the trust term ends, the remainder passes to a charity or charities.

Those with taxable estates (assets exceeding $11.58 million per individual in 2020, $23.16 million per married couple in 2020), historically low interest rates and lower asset values create a unique opportunity to plan with charitable lead annuity trusts (CLATs). A CLAT is an irrevocable trust that pays a set amount to a charitable beneficiary for a term of years with the remaining amount at the end of the trust term distributed to non-charity beneficiaries, such as you or your children. The donor receives a current charitable deduction to offset the taxable transfer to your beneficiaries, which is sensitive to the IRS Section 7520 interest rate. The lower the interest rate (0.6 percent in December 2020), the higher the deduction. The greater the difference between the projected average rate of return of CLAT assets over the trust term and the Section 7520 rate, the greater the potential tax-free wealth transfer to the younger generation.

Whether it is year-end personal planning or specific charitable year-end planning, "stewardship" is the glue that binds it all together with proper action.

Stewardship activities with a proposed donor include providing alternatives and providing names of professionals to draft specific documents. Stewardship cultivation doesn't end with a completed document. It continues with a donor acknowledgement, reporting results of a completed gift, and having a continuing dialogue with donors regarding their wishes and possible future gifts.

Yes, year-end planning draws us to a close in some respects and opens doors to others.